Public Service Management Pension Plan Board

1991

ANNUAL

REPORT

Alberta

GOVERNMENT PENSION BOARDS

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Alberta
GOVERNMENT PENSION BOARDS

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August 1992

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the annual report of the Public Service Management Pension Plan Board for the period January 1, 1991 to December 31, 1991. The report outlines the roles and responsibilities of the Public Service Management Pension Plan Board under the legislation governing the plan.

Board activities during the period under review, with respect to its appellate and advisory roles, are described in the report.

Yours truly,

Don Harford
Vice-Chairman

TABLE OF CONTENTS

	Page #
Introduction	1
The Board	2
Summary of Appeals	4
Advice	8
Appendices	
A - Excerpts from the Act	11
B - Summary of Statistics	15
C - Cost of Living Adjustment	17

INTRODUCTION

The calendar year 1991 is the sixth year of operation of the Public Service Management Pension Plan Board. This Board was established November 1, 1985 under the Public Service Management Pension Plan Act.

The main responsibilities of the Board are:

- to hear appeals of administrative decisions on pensions made by the Minister,
- to extend time limits under section 10 of the Act and under reciprocal agreements, and
- to advise the Minister responsible for public service pensions on matters relating to the Plan.

The Honourable Dick Johnston, Provincial Treasurer, is the Minister responsible for public service pensions. The Plan is administered by Alberta Treasury, Payroll and Pensions Division.

The Board is made up of five members who are appointed by the Lieutenant Governor in Council, representing the employees, the employers and the Government.

The roles of the Board are split between quasi-judicial and advisory. The quasi-judicial role of the Board is summarized in the section Summary of Appeals. A sample of appeal cases is provided for information. The advisory role is discussed in the section headed "Advice".

THE BOARD

The Board is made up of 5 members, appointed by the Lieutenant Governor in Council, representing employees, employers and the Government. Although the Public Service Management Pension Plan Act stipulates that one member shall be appointed from among the participants, there is no clear indication on the division of employee and employer representation. The Vice-Chairman and Chairman are appointed from among the members and the latter is responsible for the leadership at hearings and meetings of the Board. With the exception of the Chairman, Board members serve on a part-time basis. The Chairman serves as Chairman of the Boards of four other government administered pension plans and Vice Chairman of the Board of Administrators of the Teachers' Retirement Fund. A small staff provides professional and administrative services to all Boards.

Brief biographies of Board members as at December 31, 1991 are provided below:

J. E. Faries

Mr. Jerry Faries was appointed Chairman of the Board in 1985. He brings to the Board considerable background in pension policy and administration. He served over 15 years as Director of the Pension Administration and five years as Chairman of the Administrative Board. Mr. Faries was, for a number of years, chairman of the Advisory Committee and instructor for the Employee Benefit Administration Certificate program offered by the Faculty of Extension at the University of Alberta. Currently, he holds several senior positions on other boards and community organizations. His term of office expires on June 30, 1992.

A. F. (Chip) Collins

Mr. Collins, the government representative, is Vice-Chairman of the Board. He served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins brings to the Board extensive financial, administrative, and public service experience. His term of office expires on April 1, 1992.

T. Forgrave

Mr. Tom Forgrave was appointed to the Board on January 8, 1987. He received his undergraduate and graduate education at the University of Western Ontario and Toronto. An ordained minister of the United Church of Canada, he has held various positions with the City of Edmonton. He is currently Assistant Deputy Minister, Municipal Administrative Services Division, Alberta Municipal Affairs. His term of office expires on April 1, 1995.

D. B. Harford

A graduate of the University of British Columbia, Mr. Don Harford joined the Alberta Government in 1967, working in human resource development and personnel. For the period 1971 to 1973 he was Assistant to the Alberta Minister of Manpower and Labour. He was on loan to the Government of Saskatchewan from 1975 to 1979. On his return to Alberta, he assumed the position of Executive Director, Management Services Division, Personnel Administration Office. Mr. Harford was appointed to the Board in November 1989 to complete Mr. Black's term of office which expires on April 1, 1995.

O. J. Lennie

Mrs. Oryssia Lennie received her undergraduate and graduate studies at the University of Alberta. She was awarded the Queen Elizabeth 25th Anniversary Medal (Citizenship Award) in 1977. She began her career as a Research Officer with the Department of Federal and Intergovernmental Affairs and is currently Deputy Minister with the same department. Her term of office expires on December 31, 1992.

SUMMARY OF APPEALS

Provisions

The Act provides that decisions of the Minister, which adversely affect plan members' rights under the Pension Plan, in any of the following areas, can be appealed:

Participation	Contributions
Pensionable Service	Prior Service
Benefits	

The Act also provides for application to the Board for extension of time limits in respect of pension benefits and benefit choices. Under the terms of the various reciprocal transfer agreements, the Board is empowered to extend time limits on breaks in service and on applications at its discretion.

The provisions dealing with applications under section 10 and appeals under section 35 are outlined in Appendix A - excerpts from the Act.

Parties aggrieved by a decision of the Board may appeal, under section 36 of the Act, to the Court of Queen's Bench within 30 days on a question of law or jurisdiction.

Procedure

A prescribed Notice of Appeal form is normally provided to the plan member by Payroll and Pensions Division of Alberta Treasury accompanying any adverse administrative decision. This form must be completed and submitted in filing an appeal with the Board. It may also be used for applications for time limit extensions.

Assistance to appellants is available from the Chairman's office. The individual may seek advice on what facts to gather and how they should be presented.

Hearings are conducted in an informal manner, and the Board is guided by the pension legislation and adheres to the principles found in the doctrines of natural justice and fairness. The Board has published a Pension Appeal Process brochure which provides guidelines for members of the Alberta Pension Plans.

The Board has authorized the Chairman to reimburse appellants and applicants appearing before the Board for reasonable travel and out-of-pocket expenses. This ensures that all appellants and applicants have the opportunity to appear and present their cases irrespective of their places of residence.

Summary of Appeals and Applications (1991)

During 1991 the PSMPP Board decided on 5 appeals and applications, compared to 8 dealt with in the previous year. The Board granted or varied 80% and 75% of the cases in 1991 and 1990 respectively.

In 1991, all appellants and applicants or their representatives attended their hearings before the Board. This compares to 87% in 1990.

Summary of Appeals and Applications for 1991, by categories, with comparative figures for 1990 - PSMPP Board

	1991			1990		
Category	#	% of Total	% Granted or Varied	#	% of Total	% Granted or Varied
Reciprocal Transfer	0	-	-	1	13%	100%
Time Limit Extensions (Section 10)	1	20%	100%	2	25%	50%
Appeals (Section 35)	4	80%	75%	5	62%	80%
TOTAL	5	80%	100%	8	100%	75%

Appeal 1 - Prior Service

The applicant took a leave of absence in 1981 and in 1984. Payroll and Pensions (P & P) received an application for recognition of the prior service for both leaves and a notice of cost was issued. In January 1987 another application for recognition of the 1981 leave was received; a notice of cost was issued in February 1987 and was paid for. The applicant was re-classified to a management position in June 1987. P & P automatically transferred the contributions and credits to the PSMPP and advised the employer and the participant that the transfer had been made.

On receiving her 1989 year end statement, the applicant raised an issue respecting her length of service. Miscommunication between the employer and P & P led the appellant to believe that she had already purchased both the 1981 and 1984 leaves. It was determined that due to a clerical error on the part the employer's staff the 1984 leave was not included in the request to purchase made in 1987.

P & P denied the application to purchase the 1984 leave on the basis that the time limit had been exceeded.

The Board extended the time limit to allow the purchase of the period of leave of absence on the basis that:

> The employer erred in not requesting the leave.
>
> The applicant did not sign an application and was under the impression that the employer had applied for all the periods of leave.
>
> Incorrect information was provided by P & P on the length of service indicating that the 1984 leave had been included.
>
> The appellant was not materially at fault in missing the deadline.

Appeal 2 - Transfer

The applicant transferred pension credits and contributions from the Local Authorities Pension Plan (LAPP) to the Public Service Pension Plan (PSPP) in March 1981. While the applicant was a leave of absence while under the PSPP, she successfully applied for a management position in June 1986. She attempted to purchase the leave and to upgrade her pension from the PSPP to the Public Service Management Pension Plan (PSMPP). The applicant indicated that the information she received from P & P on prior service, including the management contribution deficiency, was incorrect and confusing. In frustration and in order to meet the tax shelter deadline, she elected to pay $1,000 to purchase part of the service. It was not until 1988 on receiving another costing from P & P that she learnt about the periods she was purchasing. She later attended a management pension seminar and determined that it was worth her while to revive the issue.

As far as P & P was concerned, the decision was made in 1987 and the issue was closed. Therefore, a new costing was issued in 1990 based on the salary at time of application and the amount became substantially higher.

The Board vacated the Minister's decision and determined that there was no time limit involved in this case other than outstanding interest since the applicant's LAPP service, once transferred to the PSPP, should have been treated as part of her PSPP service. The Board's decision was based on the following:

(1) The agreement between the LAPP and the PSPP calls for the LAPP service to be recognized in every respect pursuant to the PSPP Act. Section 1(1)(r) of the PSMPP Act also defines "service" to include those transferred under a reciprocal agreement and the applicant did transfer from the PSPP to the PSMPP.

(2) Section 15(2) of the principal regulation under the PSMPP Act provides for PSPP service to be recognized under the PSMPP at a preferential rate.

ADVICE

The Minister indicated early in 1991 that he contemplated introducing legislation to meet new Federal Income Tax Act requirements and making a number of "financing, benefit and administrative changes" to the Public Service Management Pension Plan. He brought forward a package of proposals on July 9th, 1991. He requested that the Board respond by the end of September and encouraged plan stakeholders to use the PSMPP Board as an avenue to present their views. As a result, the focus of the Board's advisory role in 1991 was to advise him of plan members' concerns.

Compliance with the Federal Income Tax Act was important to ensure that required employee contributions remained tax deductible. The plan had to be administered on the new basis effective January 1, 1992. With no guarantee of a Fall sitting, the Board agreed to interim legislation that would allow the plan to be changed through regulation. This legislation had a one year sunset clause and the Board was assured that it would have the opportunity to review the regulations in draft form prior to their submission to Cabinet.

The new Federal Income Tax rules affected the PSMPP in a number of ways. The Board responded to draft regulations presented to it in late November and continued to monitor the implementation of administrative changes. The Board recognized the necessity for many of the changes but was very sensitive to the issue of adequate notice to plan participants. The Board was particularly concerned about the proposal to move to 5% early retirement reduction factors with the introduction of the rule of 80 for service after 1992. In addition, some changes such as the application of the maximum salary cap were open to interpretation as to whether they were required to meet the Federal rules. The Board also recommended the consideration of a plan to offset the reduction in compensation due to the restrictions imposed by Federal tax reform. With the expectation of final legislation in the Spring session, these and other issues will continue to be of concern to the Board in 1992.

The bulk of the Minister's July 9th proposals represented a broader pension reform initiative. The Minister is to be commended for attempting to address a number of long standing concerns regarding funding and portability. Included in the proposals was a plan to fully fund Provincially administered pension plans' past service liability, a requirement that employers and employees fully fund future service, the formal recognition of indexing of pensions at 60% of inflation, improved portability of future service benefits, the removal of prior service purchases and the cancelling of reciprocal agreements.

The Board's response to the Minister was presented on September 30, 1991 and copies are available upon request. A recurring theme in the Board's report was the multiple role of government. The Board was careful to distinguish between government's role as sponsor and guarantor of the plan, and its role as the dominant employer in the plan.

The Board actively sought formal responses from employer and employee participants in the plan. Departments, Boards, Agencies and Commissions were requested to submit comments as employers and to survey their managers from the employees' perspective. In addition to those responses, a number of managers made independent representations to the Board. As a result, the Board had extensive commentary from employers and employees within the plan on which to base its response to the Minister. A summary of the commentary was included in the Board's submission.

The specific recommendations of the Board can be summarized as follows:

Funding:

- The present defined benefit plan be preserved.

- Employees and employers share the cost of future funding. Current service be established on the unit credit method, a 1.0% productivity assumption be used, and the existing cost sharing arrangement be maintained.

- The government be responsible for the past service unfunded liability. Existing employees share a portion of the cost of securing indexing for their service earned under the plan.

- The governance of the plan be reviewed.

Portability:

- Reciprocal transfer agreements be maintained and the costing of such transfer be "cost-neutral" (actuarial basis) to the plan. But for the calculation of the early retirement reduction factor and for vesting purposes the service should be recognized.

- Purchase of prior service permitted under Federal tax rules be allowed but on an actuarial or "cost-neutral" basis.

A focal point of the Board's report was governance. The issue of governance emerged not out of a desire to gain "control" of the pension plan but because the Minister's proposal indicated that the pension deal that was originally agreed to and implemented in the past was no longer acceptable by government. Under the Minister's proposal the pension deal would have changed from a partially funded provincially guaranteed defined benefit plan to a full self-funded employer/employee shared risk-reward arrangement. Unless the governance consequences of this "new pension deal" were properly addressed, there would be no legitimacy to imposing the discipline of full self-funding on employees and employers.

The Board presented its report as a first step in developing the dialogue necessary to come to a solution that would be satisfactory to all parties to the "pension deal". Subsequently, the Board met twice with the Minister. Unfortunately, those discussions did not lead to an immediate solution. It is hoped that discussions will be resumed in early 1992.

APPENDIX A

Excerpts from the Act

The following excerpts of the Public Service Management Pension Plan Act define the make-up and responsibilities of the Public Service Management Pension Plan Board.

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Public Service Management Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among participants.

(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

(6) The Board may make rules respecting the calling of and conduct of business at its meetings.

Chairman and Vice-chairman

6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of chairman is vacant or when the chairman is absent or unable to act.

Support services

7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Objects of the Board

8 The objects of the Board are

(a) to conduct the hearing of appeals under Part 6;

(b) to provide advice to the Minister under section 9;

(c) where appropriate, to extend time limits and treat benefit choices as revoked under section 10;

(d) to exercise and perform any other powers and duties assigned to it by this Act and the regulations;

(e) to perform any other duties relating to the Plan that are assigned to it by the Minister.

Advisory functions of the Board

9 The Board may advise the Minister respecting any matters relating to the Plan, including

(a) the adequacy of contributions to meet benefits,

(b) adjustments to pensions under section 27,

(c) rates of interest for the purposes of the Plan,

(d) benefits,

(e) reciprocal agreements,

(f) recognition of prior service,

(g) eligibility and participation in the Plan, and

(h) the actuarial tables prescribed or to be prescribed by the Minister.

Board's power to extend time limits, etc.

10(1) Where

(a) a person fails to meet a time limit under the Plan,

(b) the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and

(c) the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked, substitute for it the choice that, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) *A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.*

(3) *The notice of appeal must specify the decision appealed against and the grounds of appeal.*

(4) *The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.*

(5) *For the purposes of conducting an appeal under this section, the Board*

(a) *has all of the duties, powers, privileges and immunities given to a commission appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and*

(b) *shall be deemed to be a person for the purposes of section 1(a) of the Administrative Procedures Act.*

(6) *The Board may confirm, vacate or vary the decision appealed against.*

(7) *The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.*

Appeal to the Court of Queen's Bench

36(1) *A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.*

(2) *The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.*

(3) *The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.*

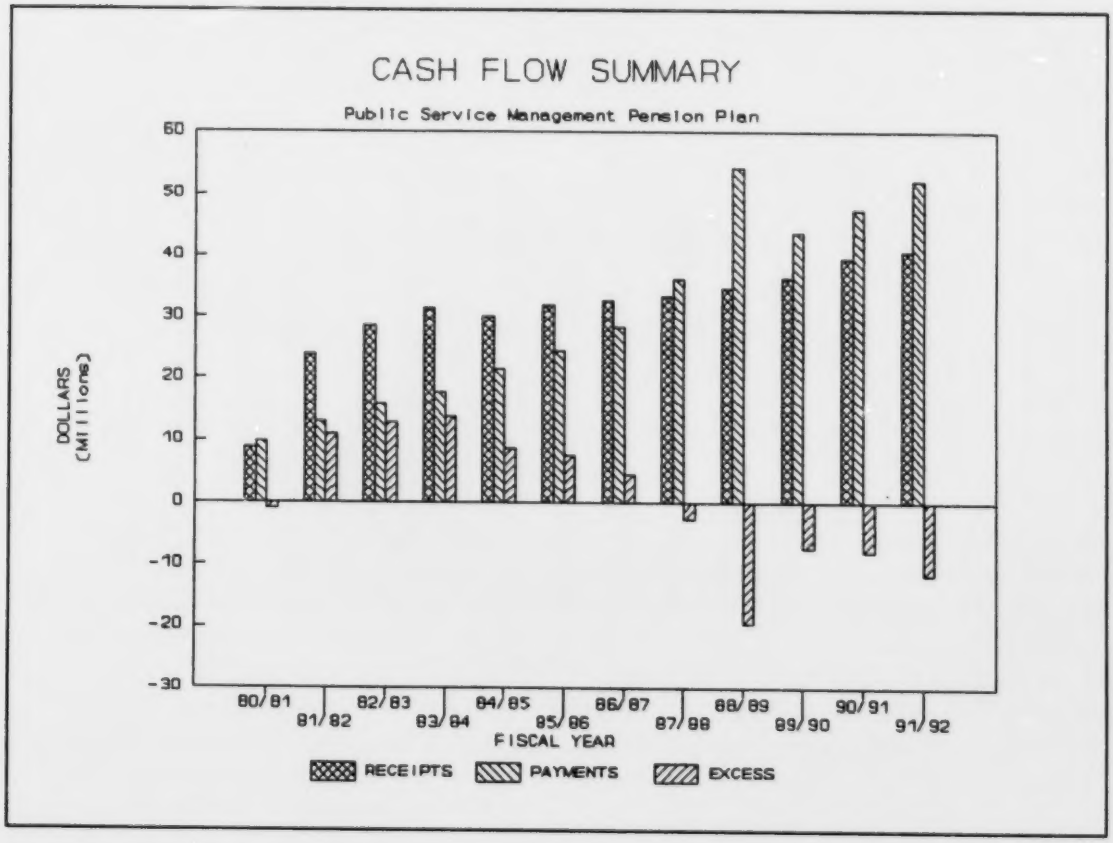
APPENDIX B

Summary of Statistics

Payroll and Pensions provide monthly reports to the Board. Based on this information, the Chairman's office has compiled the following summary:

Cash Flow

The graph below shows the cash flow for fiscal years 1980/81 through 1991/92. A cash deficiency has been experienced for five consecutive years. Included in the payments for fiscal year 1988/89 of $54,247,000 was a transfer of funds of approximately $13.5 million to the Judges' Pension Plan. This payment is also reflected in the shortfall for fiscal year 1988/89 of $19,458,000. The shortfall for fiscal year 1991/92 is $11,564.000.



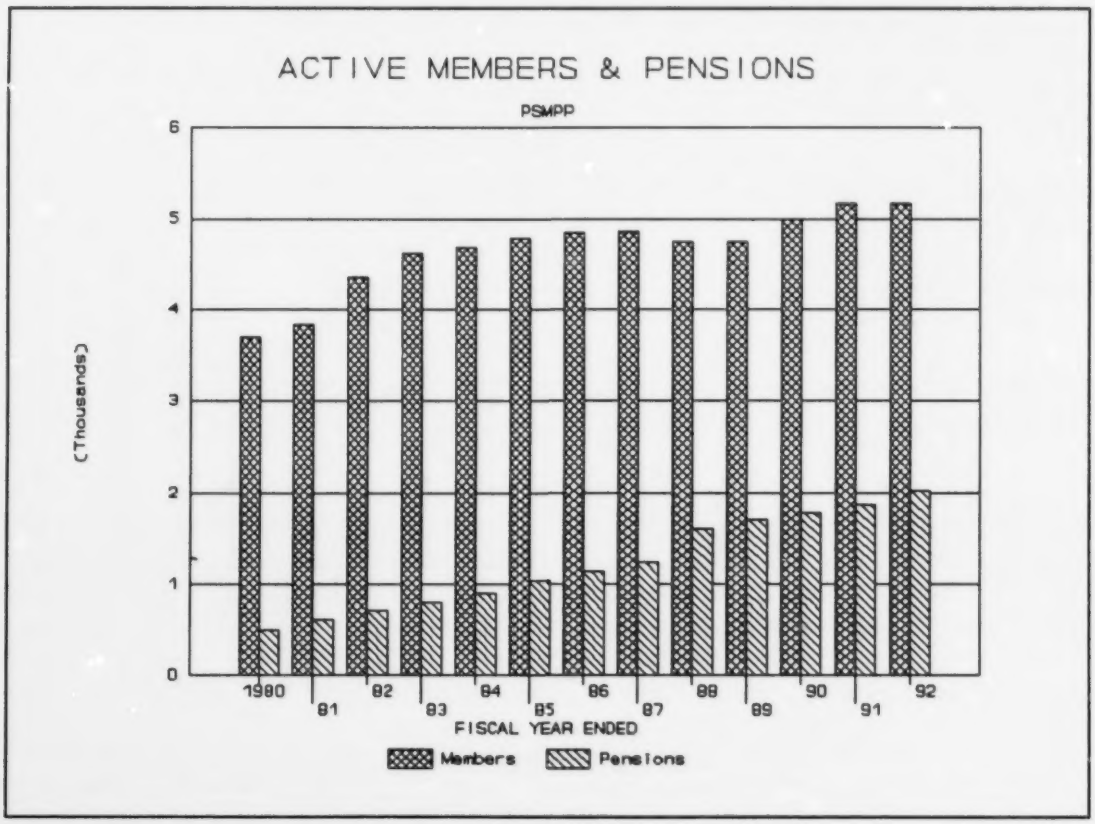
Membership

Active membership in the plan increased from 3,693 as at March 31, 1980 to 5,168 as at March 31, 1992. The 1992 figure is a slight decrease from 5, 173 as at March 31, 1991. The graph below illustrates the relative changes.

Pensions in Payment

Pensions in payment increased from 496 at March 31, 1980 to 2,030 as at March 31, 1992. The graph below illustrates the relative increases.

The average pension in payment was $1,263 per month on March 31, 1980 and has increased to $2,159 per month for pensioners and $1,317 per month for surviving spouses on March 31, 1992.

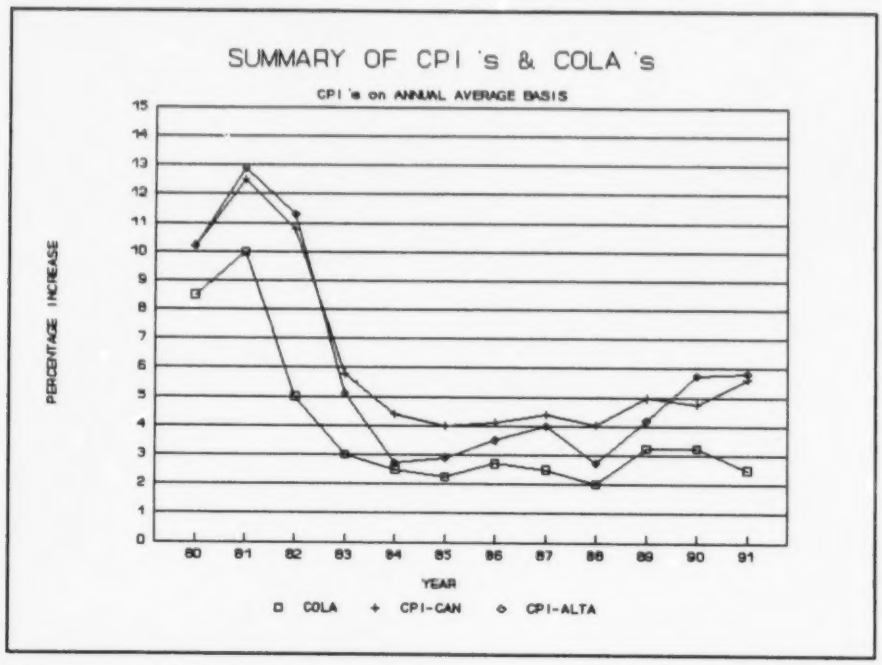


APPENDIX C

Board Recommendations

1. **COLA:**

Cost of living adjustments to the plan are granted annually (since 1962) by the Minister. The actuarial valuations contemplate a COLA on the basis of 75% of the Consumer Price Index (CPI). The actual COLA that has been granted has fallen short of that target level through out most of the last 12 years.



The graph above shows the COLA's granted on January 1 following the years 1980 through 1991, i.e. the COLA of 3.25% shown for 1990 was granted on January 1, 1991. The Consumer Price Index (CPI) increases are for the calendar years, i.e. CPI-CAN shown for 1990 is the 4.8% increase in the 1990 average CPI over the 1989 average CPI. During the 12-year period the average annual increases were as follows: Canada CPI - 6.3%, Alberta CPI - 5.9%, COLA's granted - 3.9%. Similarly, during the 5-year period 1987 through 1991 the average annual increases were as follows: Canada CPI - 4.7%, Alberta CPI - 4.5%, COLA's granted - 2.7%.